

NOT FOR PUBLICATION

JAN 10 2008

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

ELISEO BARBOZA LUNA; et al.,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 07-73006

Agency Nos. A95-451-103
A95-451-104

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted January 7, 2008**

Before: O'SCANNLAIN, SILVERMAN and GRABER, Circuit Judges.

This is a petition for review from the Board of Immigration Appeals' ("BIA") July 6, 2007 decision denying petitioners' motion to reconsider and reopen.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

We have reviewed the record and respondent's motion for summary disposition in part and to dismiss in part. We conclude that summary disposition is appropriate with respect to the BIA's denial of petitioners' motion to reconsider because the questions raised by this petition for review are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard). The regulations provide that a motion to reconsider "shall state the reasons for the motion by specifying the errors of fact or law in the prior Board decision and shall be supported by pertinent authority." 8 C.F.R. § 1003.2(b)(1). The BIA did not abuse its discretion in denying petitioners' motion to reconsider where petitioners failed to identify any errors of fact or law in the BIA's February 26, 2007 decision affirming the denial of cancellation of removal. *See Lara-Torres v. Ashcroft*, 383 F.3d 968, 972 (9th Cir. 2004) (BIA's denial of a motion to reconsider is reviewed for abuse of discretion). Accordingly, respondent's unopposed motion for summary disposition in part is granted.

Respondent's unopposed motion to dismiss this petition for review for lack of jurisdiction with respect to petitioners' motion to reopen is granted. *See* 8 U.S.C. § 1252(a)(2)(B)(i); *Fernandez v. Gonzales*, 439 F.3d 592, 601 (9th Cir. 2006) (concluding that the court lacks jurisdiction to review the Board of

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Immigration Appeals' denial of motion to reopen for failure to establish a prima facie case if a prior adverse discretionary decision was made by the agency).

The temporary stay of removal and voluntary departure confirmed by Ninth Circuit General Order 6.4(c) and *Desta v. Ashcroft*, 365 F.3d 741 (9th Cir. 2004), shall continue in effect until issuance of the mandate.

All other pending motions are denied as moot.

PETITION FOR REVIEW DENIED in part, DISMISSED in part.